



11 MAY 2004  
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In re Application of :  
BOND, Thomas Eugene :  
Application No.: 09/720,042 :  
PCT No.: PCT/AU99/00486 : DECISION ON PETITION  
Int. Filing Date: 17 June 1999 :  
Priority Date: 17 June 1998 :  
Attorney Docket No.: 3113FBR :  
For: SOFTWARE VERIFICATION AND  
AUTHENTICATION

This is a decision on applicants' "Renewed Petition under CFR 1.137(b)" filed 23 December 2003 in the above-captioned application. The above-captioned national stage application became abandoned for failure to submit an acceptable oath or declaration within the time period set forth in the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 25 January 2001.

### **BACKGROUND**

On 17 June 1999, applicant filed international application no. PCT/AU99/00486 which claimed a priority date of 17 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 December 1999. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States at midnight on 17 December 2000.

On 15 December 2000, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 25 January 2001, the PTO mailed a "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. The notification set a one-month period to respond.

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On 26 September 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 25 January 2001 within the time period set therein.

On 23 July 2002, applicant filed petitions under 37 CFR 1.137(b) and 37 CFR 1.183. In a decision dated 20 September 2002, applicant's petitions were dismissed without prejudice.

On 31 July 2003, applicant filed renewed petition under 37 CFR 1.137(b) and 37 CFR 1.47(b). In a decision dated 30 September 2003, applicants' petitions were dismissed without prejudice.

On 23 December 2003, applicant filed the present renewed petition under 37 CFR 1.137(b) and 37 CFR 1.47(b).

On 06 May 2004, applicant filed a declaration executed by the attorney of record on behalf of the assignee.

## DISCUSSION

### Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional. Items (2) and (4) were satisfied in the Decision on Petition mailed 30 September 2003.

Item(1) and (3) have now been met.

### Petition under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Items (1) through (3) and (6) were satisfied in the Decision on Petition mailed 30 September 2003.

Item (4) and (5) have now been met.

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**CONCLUSION**

For the reasons above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

Applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of **06 May 2004** under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).



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In re Application of  
BOND, Thomas Eugene  
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PCT No.: PCT/AU99/00486  
Int. Filing Date: 17 June 1999  
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Dear Mr. Bond:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

A handwritten signature in black ink, appearing to read "Anthony Smith", is located above the typed name.

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